

STATE OF HAWAII
BOARD OF
EDUCATION
GENERAL BUSINESS MEETING
MINUTES

Queen Liliuokalani
Building 1390 Miller
Street, Room 404
Honolulu, Hawaii 96813
Thursday, October 4, 2018

PRESENT:

Catherine Payne, Chairperson
Patricia Bergin
Margaret Cox
Nolan Kawano
Kili Namau, u
Dwight Takeno
Kenneth Uemura
Bruce Voss, Esq.
David Texeria (student representative)

EXCUSED:

Brian De Lima, Esq., Vice Chairperson
Captain Lyn Hammer (military representative)

ALSO PRESENT:

Christina Kishimoto, Superintendent
Cynthia Covell, Assistant Superintendent, Office of Talent Management
Heidi Armstrong, Interim Assistant Superintendent, Office of Student Support Services
Alison Kunishige, Executive Director
Regina Pascua, Board Private Secretary
Irina Dana, Secretary

I. Call to Order

The Board of Education (&Board8) General Business Meeting was called to order by Board Chairperson Catherine Payne at 1:30 p.m.

II. *Public Testimony on Board of Education (&Board8) Agenda Items

Board Chairperson Payne called for public testimony. The following people provided oral testimony.

Name	Organization	Agenda Item	Position
Corey Rosenlee	Hawaii State Teachers Association	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	Comment
Robin Wurtzel	Hawaii Civil Rights Commission	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and	Comment

		Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Susan Rocco	Special Education Advisory Council	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Administrative Rules,	Comment

		Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Camaron Miyamoto	Hawaii Queer/Transgender Community Alliance	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	Comment

Corey Rosenlee, Hawaii State Teachers Association, testified on Hawaii Administrative Rules (&HAR8) Chapter 19, entitled &Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism⁸ (&Chapter 198);

HAR Chapter 41, entitled &Civil Rights Policy and Complaint Procedure8 (&Chapter 418); and proposed new HAR Chapter 89, entitled &Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)8 (&Chapter 898). Rosenlee detailed the negative effects of the Board and Department of Education (&Department8) moving bullying from a Class B to a Class A offense, including increased suspensions. He detailed that bullies oftentimes come from abusive environments and encouraged the Board and Department to review long-term solutions that would not lead to additional students dropping out of school.

Robin Wurtzel, Hawaii Civil Rights Commission, testified on new proposed Chapter 89 and stood on her written testimony. She suggested that the Department revise its complaint and investigative procedure rule under Chapter 89 to shift the burden of obtaining information from the student to the school.

Susan Rocco, Special Education Advisory Council (&SEAC8), representing Martha Guinan and Ivalee Sinclair, testified on SEAC,s recommendations regarding Chapter 19 and new proposed Chapter 89. Rocco detailed that SEAC,s recommendations include providing copies of written complaints to parents, replacing subjective terms with concrete timelines, and categorizing bullying as a Class B offense rather than as a Class A offense.

Camaron Miyamoto, representing the Hawaii Queer/Transgender Community Alliance, testified in opposition to the language in new proposed Chapter 89 as it currently standards. Miyamoto detailed concerns regarding the Department,s implementation and lack of consultation with professional stakeholders. He requested that the Board schedule a presentation by the Department of Health to present data from a recent report, and schedule a meeting with community stakeholders to review and support comprehensive draft language against bullying and harassment that protects all students, including sexual and gender minority youth, before advancing the proposed changes to Chapter 19 and new proposed Chapter 89.

Board Chairperson Payne asked if Miyamoto could be more specific on Hawaii Queer/Transgender Community Alliance,s concerns regarding current language in new proposed Chapter 89. Miyamoto explained that the 15 organizations that are a part of the Hawaii Queer/Transgender Community Alliance have various concerns regarding language. He detailed that some of the concerns are regarding systemic needs and power differentials that may make it difficult for students to access assistance.

Board Member Bruce Voss stated that it appears as though the Hawaii Queer/Transgender Community Alliance,s concerns are regarding implementation, interpretation, enforcement, and support of Chapter 19 and new proposed Chapter 89. He asked if the Hawaii/Queer Transgender Community Alliance had a stakeholder input meeting with the Superintendent to make sure that the Department addressed its concerns, if this would be sufficient. Miyamoto stated that this would be an excellent starting point to interface with the Superintendent. He highlighted that he would like to extend assistance to the Department in developing best practices. Board Chairperson Payne stated that the Board and Department would appreciate the help in moving forward to ensure that changes are implemented in a way that are in the best interests of the students who are affected by them.

Written testimony was also received and provided to Board Members. The following is a listing of the people that submitted written testimony before the testimony deadline.

Name	Organization	Agenda Item	Position
Dennis Tynan	Public	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies	Support

		standards for elementary and secondary	
Suzanne Chun Oakland	Hawaii Council on Economic Education	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Denise Esposito, Jim Dixon	Hawaii Council on Economic Education	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Julianne Walsh	University of Hawaii at Manoa, Center for Pacific Islands Studies	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
John L. Fink	KVFE, Hawaii Council on Economic Education	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Naomi Oshiro	Hokulani Elementary School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Colin D. Moore	University of Hawaii at Manoa,	VII.B., Board Action on Student	Support

	Public Policy Center	Achievement Committee recommendations concerning social studies standards for elementary and secondary	
Debra Sanbei	Hilo High School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Lynn Yoshioka	Mililani Middle School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
India S. Meissel, Lawrence Paska	National Council for the Social Studies	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Domestic Violence Action Center, GLSEN Hawaii Chapter, Hawaii Health & Harm Reduction Center, Hawaii LGBT Legacy Foundation, HepFree Hawaii, Japanese American Citizens League) Honolulu, LGBT Caucus) Democratic Party of Hawaii, Maui AIDS Foundation, Mental Health	Hawaii Queer/Transgender Community Alliance	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student	Comment

America Hawaii, Planned Parenthood Votes Northwest and Hawaii, Residential Youth Services & Empowerment, University of Hawaii Commission on LGBTQ+ Equality, University of Hawaii at Manoa) LGBTQ+ Center, Windward Community College LGBTQ+ Commission		Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendati ons concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Sharyl Lynn Fujii	Pearl City- Waipahu Complex Area	VII.B., Board Action on Student Achievement Committee recommendati ons concerning social studies standards for elementary and secondary	Support
Robert Perkinson	Department of American Studies, University of	VII.B., Board Action on Student Achievement Committee	Support

	Hawaii at Manoa	recommendations concerning social studies standards for elementary and secondary	
Rudy Domingo Jr.	Leilehua High School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Rae Shih	American Civil Liberties Union of Hawaii	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning	Comment

		approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Josephine Chang	Public	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance and Infrastructure and Student Achievement	Opposed/Comment

		Joint Committee recommendations concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Dean Hamer	Qwaves Media	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; VII.D., Board Action on Finance	Opposed/Comment

		and Infrastructure and Student Achievement Joint Committee recommendati ons concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Amy Perruso	Mililani High School	VII.B., Board Action on Student Achievement Committee recommendati ons concerning social studies standards for elementary and secondary	Support/Comme nt
Ted Jaderstrom	Kamiloiki Elementary School	VII.B., Board Action on Student Achievement Committee recommendati ons concerning social studies standards for elementary and secondary	Support
Martha Guinan, Ivalee Sinclair	Special Education Advisory Council	VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee	Comment

		recommendations concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	
Beth Ratway	Pacific Regional Comprehensive Center	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Corey Rosenlee	Hawaii State Teachers Association	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Mitzie Higa	Holomua Elementary School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Jon Davidann	Hawaii Pacific University	VII.B., Board Action on Student Achievement Committee	Support

		recommendations concerning social studies standards for elementary and secondary	
Lorey Ishihara	Kahuku High & Intermediate School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Martha Guinan, Ivalee Sinclair	Special Education Advisory Council	VII.C., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism	Comment
Hong Jiang	Department of Geography and Environment, University of Hawaii at Manoa	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support

Jody Africa Aguilar	Maui High School	VII.B., Board Action on Student Achievement Committee recommendations concerning social studies standards for elementary and secondary	Support
Robin Wurtzel	Hawaii Civil Rights Commission	VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)	Comment

III. Approval of Meeting Minutes of September 20, 2018

ACTION: Motion to approve the General Business Meeting minutes of September 20, 2018 (Uemura/Takeno). The motion carried unanimously with all members present voting aye.

IV. Reports of Board Committees, Board Members, and Superintendent

- A. **Student Achievement Committee Report on: (1) Presentation on Complex Area Superintendent Report: special education and English learner in the Honokaa-Kealakehe-Kohala-Konawaena Complex Area; (2) Committee Action on social studies standards for elementary and secondary**

Student Achievement Committee Chairperson Margaret Cox reported that the committee received a report on special education and English learners in the Honokaa-Kealakehe-Kohala-Konawaena Complex Area. She reported that the committee also took action on social studies standards for elementary and secondary. She highlighted that the committee received favorable

testimony on the social studies standards and stated that she is looking forward to seeing how the Department will implement social studies standards if they are approved by the Board.

B. Superintendent,s Report: (1) October 2018 Education Update; (2) update on school visits; (3) update on 2017-2020 Department of Education and Board of Education Joint Strategic Plan implementation: Focus on special education fiscal allocation update

Christina Kishimoto, Superintendent, reported that the U.S. Department of Education named three Hawaii elementary schools as 2018 National Blue Ribbon Schools program award winners, including Kalihi Uka, Mililani Uka, and Pauoa Elementary. Kishimoto stated that she is excited that the Board would be taking action on social studies standards for elementary and secondary and highlighted recently adopted computer science standards and Next Generation Science Standards. She highlighted that the Department would focus on the implementation of high-quality standards in three areas over the next few years. She stated that all three standards focus on hands-on learning, were developed by teachers, and are interdisciplinary.

Kishimoto stated that the application for Free Application for Federal Student Aid (&FAFSA8) opened on October 1, 2018. She stated that the Department,s goal is to have 70% of its seniors complete the FAFSA this year, and 90% of its seniors complete the FAFSA in 2020. Kishimoto emphasized the importance of students maximizing their federal student aid and noted that even if a student does not qualify for need-based aid, many private scholarships require that a student completes a FAFSA application as part of their screening for competitive scholarships. She highlighted that the Department is partnering with Hawaii P-20 and the University of Hawaii to promote the Cash for College Challenge to help boost its completion rates and detailed awards for schools that raise their FAFSA completion percentage.

Kishimoto reported that she visited five schools. She highlighted that Kalaheo High School received an innovation grant award and detailed how the school,s teachers created an engineering lab. She further highlighted the school,s learning model and classroom design and detailed that upper-grade students act as peer teachers to new students. Kishimoto stated that Waialae Elementary School set instructional goals and strategies that cut across its Hawaiian language immersion program and its English language immersion program. She noted that the entire school is using the same instructional strategies which allows teachers to interact across programs.

Kishimoto reviewed special education fiscal allocations. She detailed that the special education taskforce met the previous year and provided the Department with recommendations, including reviewing per-pupil allocation for special education services in a way that maximizes dollars at the school-level for high quality services to students. Kishimoto highlighted that the Department created a special education fiscal allocation workgroup that includes representation from within the Department as well as stakeholder organizations. She detailed that the taskforce would meet six times over the year and make recommendations regarding how to restructure special education funds. Kishimoto stated that she would come back to the Board in either May or June 2019 with the taskforce,s recommendations so that the Department could implement changes for the following year.

V. Discussion Items

A. Update on Superintendent,s evaluation for 2018-2019 School Year: adjustments to and status of achieving Superintendent's priorities

The Board took this agenda item with agenda item VII.A., Board Action on adjustments to Superintendent,s priorities (Superintendent,s evaluation for 2018-2019 School Year. See the minutes under agenda item VII.A. for the discussion.

VI. *Public Testimony on Board Agenda Items

Board Chairperson Payne called for public testimony. There was no public testimony at this time.

VII. Action Items

A. Board Action on adjustments to Superintendent,s priorities (Superintendent,s evaluation for 2018-2019 School Year)

Kishimoto stated that the Board adopted its priority areas on June 7, 2018, and then adopted the Superintendent,s priorities on June 21, 2018. She highlighted that the Superintendent priorities align with the Board,s priority areas. Kishimoto detailed that the Board,s priorities include equity and access; safe learning environments that support students well-being; student centered school design; staff professional development, recruitment, and retention; and communication and engagement. Kishimoto stated that she previously discussed specific deliverables. She detailed that she made changes to the Superintendent priorities based on data from the Smarter Balanced Assessment and other data points. She stated that some of these changes are a result of the speed of implementation of some of the work. She noted that she made adjustments so that the deliverables aligned with the data.

Kishimoto reviewed the changes to the Superintendent,s priorities. She noted that under the Board priority area of equity and access, specific goals were not included. Thus, she included the specific goal of increasing the percentage of students receiving special education services in inclusion settings from 41% to 43% in School Year (&SY8) 2018-2019 to ensure movement toward the Department,s Strive HI goal and alignment with federal IDEA least restrictive environment requirement by identifying and implementing multiple strategies. The second shift is under the Board priority of safe learning environments that support student,s well-being. Kishimoto stated that the change to the Superintendent,s priorities under this area clarifies the implementation of the Department,s anti-bullying application. Also, one of the Superintendent,s priorities under this area establishes a targeted plan for the ten schools with the highest chronic absenteeism rate to ensure data progress toward the Strive HI strategic plan measure, specifically reducing rates from 15% to 13% in SY 2018-2019. Under the Board,s third priority area, the Superintendent,s priorities include a specific plan for increasing at least 20 pre-kindergarten classes across the state in the next biennial. She stated that this plan would be dependent on legislative funding. Absent funding, the Department would return to the Board to discuss reprogramming internal funds to increase classrooms. Finally, rather than including broad biliteracy goals, the Superintendent,s priorities were edited to develop specific content requirements and clarify certification needs for English language (&EL8) service providers, develop an EL professional development program and support the structure, and explore a bilingual education certification approach with higher education partners.

ACTION: Motion to adopt adjustments to the Superintendent,s priorities as described in the Department,s memorandum dated October 4, 2018 (Bergin/Voss). The motion carried unanimously with all members present voting aye.

B. Board Action on Student Achievement Committee recommendations concerning social studies standards for

elementary and secondary

Student Achievement Committee Chairperson Cox stated that the committee approved the adoption of Hawaii Core Standards in Social Studies. Committee Member Payne stated that it is encouraging to see what is in the future for students in terms of civic education and how these standards will connect and integrate several important key areas.

ACTION: Motion to approve the Department,s adoption of the Hawaii Core Standards in Social Studies as described in the Department,s memorandum dated October 4, 2018 (Student Achievement Committee/no second required). The motion carried unanimously with all members present voting aye.

- C. Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism**

The Board took this agenda item together with agenda item VII.D., Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Hawaii Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s). See the minutes under agenda item VII.D. for the discussion.

- D. Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Hawaii Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)**

Board Member Kenneth Uemura stated that the Department presented these administrative rules on September 6, 2018, at a joint Finance and Infrastructure and Student Achievement Committee meeting (&Joint FIC-SAC Committee8). The Joint FIC-SAC Committee did not approve the rules for public hearing and instead directed the Department to consider feedback in public testimony and from Committee Members, revise the administrative rules as appropriate, and provide the Board with explanations of any revisions. The Department was to present the revised rules and any explanations to the full Board no later than October 4, 2018. The Joint FIC-SAC Committee also appointed Board Chairperson Payne and Board Member Kili Namaau to act as advisors to the Department.

Cynthia Covell, Assistant Superintendent, Office of Talent Management, stated that the Department is requesting the Board,s approval to send to public hearing revisions to Chapter 19, repeal of Chapter 41, and creation of Chapter 89. Covell emphasized that the Department firmly believes that bullying, discrimination, and harassment of any kind is not acceptable and runs contrary to everything that the Department stands for in the public education system. She further emphasized that the Department is committed to providing all students and employees with a safe learning environment. Covell detailed that the Department,s proposed changes are based on feedback from written and oral testimony from the Joint FIC-SAC Committee meeting that was held on September 6, 2018, feedback from Committee Members, community survey responses, Department employee survey responses, and an internal review by appropriate Department employees and the Office of the Attorney General.

Covell stated that the Department would highlight its most significant proposed changes and noted

that its comprehensive changes are available in its materials. She explained that the Department collected stakeholder input through surveys and meetings and highlighted that the Department held community engagement sessions. The Department reviewed all stakeholder feedback and continues to conduct outreach. She noted that training, employee engagement, and implementation are critical to continued stakeholder feedback.

Heidi Armstrong, Interim Assistant Superintendent, Office of Student Support Services, read a portion of Hawaii Administrative Rules, Chapter 19, Section 8-29-1, entitled &Philosophy,8 which describes an important component of the chapter:

In 1996, the department initiated a collaborative and systemic reform known as the Comprehensive Student Support System (CSSS), which provides a continuum of academic, social, emotional, and physical environmental supports and services to all students to facilitate their learning and their meeting of high educational standards. It is a CSSS community of caring and supportive relationships among students, teachers, families, and agencies working together that promote timely and appropriate services for all students. The goal of the school system is to provide a learning experience in safe, caring, nurturing, and orderly teaching and learning environments.

Armstrong highlighted that this passage is the philosophy and premise of Chapter 19. Discipline is one component of the CSSS that includes a robust counseling system and other discipline methods. Armstrong detailed that the focus has been on discipline, but discipline is on the tail-end of the continuum. Armstrong detailed that the same &Philosophy8 section of Chapter 19 shares a purpose for discipline, which is to:

One, promote and maintain a safe and secure educational environment; two, teach and acknowledge proper behavior which is beneficial to the educational process and self-development; three, deter students from acts which interfere with the purpose of education or which are self-destruction, self-defeating or anti-social; four, maintain a proper student conduct to ensure that educational activities and responsibilities remain uninterrupted; and 4.1, stop any discrimination (including unlawful discrimination), harassment (including sexual harassment), or bullying against a student based on a protected class.

Armstrong stated that the first change that the Department made based on feedback was to update its student complaint and investigative procedure used for discrimination, harassment, bullying, and/or retaliation component. She detailed that the Department,s processes would ensure uniformity. The Department also reclassified certain Chapter 19 offenses based on feedback. She emphasized that the Department treats bullying as a serious offense. She stated that bullying was a Class B offense under the original rules, but the Joint FIC-SAC Committee requested that the Department categorize bullying as a Class A offense. Armstrong explained that there is no prescribed discipline attached to offenses in certain classes. She detailed that when the Department looked at making bullying a Class A offense, it had to review developmentally appropriate practices. In elementary school, children are learning appropriate social behaviors and have to be taught what is appropriate and what is not. She stated that for this reason, the Department left bullying as a Class B offense for students in kindergarten through sixth grade. As children mature, they have the benefit of teaching and experience, so the Department made bullying a Class A offense for students in seventh through twelfth grade. Armstrong stated that the Department reviewed the developmental nature of a child when reviewing sexual harassment. It left sexual harassment as a Class B offense for students in kindergarten through fourth grade. She explained that adolescence begins in fifth grade and the Department introduces sex education standards the following year. The Department felt it was appropriate to have sexual harassment categorized as a Class A offense for students in fifth through twelfth grade.

Armstrong stated that Chapter 19 does not include a set of consequences that the

Department imposes if a student commits an offense. She reiterated the philosophy of Chapter 19, including the purpose of school-administered discipline. Armstrong stated that discipline is unique. She detailed that administrators take five factors into account when they issue discipline to determine the most appropriate discipline. Administrators consider the intention of the offender, the nature and severity of the offense, the impact of the offense on others, the age of the offender, and whether the student is a repeat offender. These five factors determine appropriate discipline that will change misbehavior in a student. Armstrong provided an example of consequences, including counseling, detention, or suspension.

Armstrong stated that the Department amended its bullying definition. It combined bullying and harassment into one definition. She noted that other states, including Washington and Oregon, have done so as well. Armstrong detailed that the Department also kept the definition of bullying the same in both Chapter 19 and new proposed Chapter 89. She detailed that the definition includes examples of general and protected class bullying so that school administration has detailed guidance when identifying such behavior. The bullying definition no longer refers to a hostile environment or that the bullying act must limit a student's ability to participate. She stated that the Department's amendments to the bullying definition ensure the Department's focus on the student and enables the Department to identify and stop bullying behaviors before these behaviors escalate. She stated that the Department also updated definitions related to gender and sex in both Chapter 19 and new proposed Chapter 89, including gender expression, gender identity, and sexual orientation. She stated that the Department sourced these definitions from the Department's guidance on support for transgender students and from the federal Office for Civil Rights.

Covell noted as a reminder that new proposed Chapter 89 covers complaint procedures for student complaints against adults whereas Chapter 19 covers student-to-student complaints. Covell detailed that the definitions in Chapter 89 are the same as definitions in Chapter 19 for consistency. Covell stated that the Department removed the option to use an informal resolution process for student complaints against an adult due to power imbalances between adults and students; added reference to the Individuals with Disabilities Education Act; added that at the initiation of an investigation, parents will be notified; and added that any complaints received under Chapter 89 must be forwarded to the Civil Rights Compliance Branch, and failure to do so may result in disciplinary action. She stated that the Department made some of these changes based on the feedback that it received.

Covell stated that the Department plans to train all Department employees on non-discrimination laws, updated rules, policies, and procedures. Training will focus on what constitutes discrimination, along with the employees' obligation to report incidents. She stated that the Department will train school administrators on how to conduct investigations of discrimination, harassment, and bullying. Covell noted that the Department is in the process of developing training and creating videos to use next school year, and added that the Department will conduct specific training for principals and Complex Area Superintendents.

Armstrong highlighted the planned introduction of the Department's anti-bullying application and further highlighted that students could anonymously or by identification report bullying incidences, potential bullying incidences, or situations that bother them. She detailed that the Department's application team would attend a Hawaii State Student Council meeting in October for feedback on its app, including what it needs to include in its app, how its app could be user-friendly, and how its app could be a tool that would be effective for students to report bullying incidences. She highlighted that the Department would be creating anti-bullying videos with students that would feature scenarios. The intent of these videos is to instruct students how to report, what to do, and what mechanisms are in place for them. Armstrong detailed that the Department

expects to pilot its app with middle school students in January and further detailed that the Department's videos are currently underway and in development.

Board Member Bruce Voss commended the Department for the time and effort it spent on the amendments to the administrative rules. He emphasized that what is important is not the rules in and of themselves, but that students are safe from bullying in schools. He asked if the Department has a comprehensive plan to address system issues. He stated that although the Department has been trying to reach out to stakeholders, it is clear from testimony that its efforts have not been enough. He asked if the Board were to approve the Department to move forward and hold public hearings, if the Board can get a commitment from the Department to work with stakeholders representing the most vulnerable students, particularly those from the LGBTQI community, to ensure that the Department's implementation of its rules accomplishes its objective. Armstrong stated that the Department is absolutely committed. She noted that the bulk of the work begins once the rules are approved and emphasized that implementation is going to be key and monitoring and follow-up of what is expected is going to be key. Armstrong stated that the Department has noted the requests of testifiers and would honor the request to include the most vulnerable groups for input as it develops its implementation and monitoring plan. Board Member Voss stated that the public hearing process may take a while. He stated that he would like for the Department to reach out immediately after the meeting to seek input and ensure that the Department addresses stakeholder concerns.

Board Chairperson Payne stated that this work is important and it is important that the Department took the extra time to ensure that it got it right. She stated that the real hard work would start soon. Board Chairperson Payne noted that it is not easy to change cultures within schools with adults and students and highlighted that these tools would help the Department to change the culture.

Board Member Uemura asked if the Department included all of its revisions and outreach to stakeholders since September 6, 2018 in its memorandum. Board Member Uemura stated that the Joint FIC-SAC Committee directed the Department to provide reasons for why it made revisions and reasons why it did not make requested revisions. He asked if the Department considered all proposed revisions and if it included this information in its memorandum. Covell stated that the Department reviewed all of the input that it received. She stated that it deliberated and made changes to items that made sense to change. She stated that the Department's memorandum includes all of its revisions and rationale. She highlighted that the Department provided a comprehensive list, including why it did not make certain changes.

Board Member Uemura stated that the Department's list includes only those revisions that the Department made, but does not include proposed revisions that the Department did not make. He asked if there are any revisions that were proposed by stakeholder groups that the Department did not include. Covell stated that requests from last night's and today's testimony are not included in the Department's list, but testimony from September 6, 2018, and after September 6 were considered by the Department.

Board Member Cox asked what the next step is for the Department if the Board approves the Department's recommendation. Board Chairperson Payne stated that the next step would be for the Department to set up public hearings on its draft amendments to Chapter 19 and new proposed Chapter 89. She stated that it would be the Department's responsibility to receive further feedback on its draft amendments. Following public hearings, the Department could make non-substantive changes. If the Department determines that it needs to make substantive changes, it would need to take a step back and return to the Board. If the Department makes non-substantive changes, the Attorney General's office would review the draft followed by the Governor.

Board Chairperson Payne stated that it is a process, but could be moved faster once it gets the Governor and there is a realization that this is critical and needs to move forward. She noted that the Department needs to start thinking about implementation and professional engagement with staff before the process is over. Kishimoto added that the draft amendments would be posted on the Lieutenant Governor,s website.

ACTION: Motion to approve the Department,s recommendation to send the following matters for public hearing: 1) Revisions to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism; 2) Repeal of Hawaii Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure; and 3) Creation of Hawaii Administrative Rules, Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s), as described the Department,s memoranda dated October 4, 2018 (Voss/Cox). The motion carried unanimously with all members present voting aye.

VIII. Executive Session

This portion of the meeting is a closed meeting under Section 92-4 and Section 92-5(a)(4), Hawaii Revised Statutes.

- A. **Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing draft amendments to Hawaii Administrative Rules, Chapter 19, Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism**
- B. **Board Action on Finance and Infrastructure and Student Achievement Joint Committee recommendations concerning approving for public hearing repeal of Hawaii Administrative Rules, Chapter 41, Civil Rights Policy and Complaint Procedure and adoption of draft of new Chapter 89, Civil Rights Policy and Complaint Procedures for Student(s) Complaints against Adult(s)**

The Board did not enter into executive session.

IX. Adjournment

Board Chairperson Payne adjourned the meeting at 2:32 p.m.